IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPEAL NO. 18 OF 2005

IN

COMPANY PETITION NO. 22 OF 2001

Chandrakant K. Shah
& others. .. Applicant.

vs.

National Refinery Ltd.,
& Others. .. Respondents.

Shri Charanjeet Singh with A.L. Gore
for appellant.
Sri N.H. Seervai with M. Poonawala i/by Mulla
& Mulla & Cragie Blunt & Caroe
for respondents.

CORAM : S.U.KAMDAR, J.
DATE : 18TH MARCH, 2005.

P.C.

. By consent of the parties, the following order is passed:-

1. Mr. Justice S.M. Jhunujhunuwala, the Retired Judge of this Court is appointed as a valuer for evaluating the share of the appellant herein in

respect of their holdings in the first respondent company. Mr. Tekariwal & Co. a Chartered Accountant is also appointed to assist the learned Judge in the task of valuation of the said share.

2. The valuer shall before deciding the valuation give opportunity to both the parties to submit their written submissions as well as oral submissions and after taking into consideration the submissions of the parties and the report of the Chartered Accountant appointed, shall make appropriate report pertaining to the valuation of the claim of the appellant herein in the 1st respondent company.

3. The valuer will give the necessary report within a period of four months from today i.e. on or before 31.7.2005. The report shall also include all directions including payment by the respondent and executing of necessary documents by the appellant as receipt of payment.

4. All contentions on merits pertaining to valuation of various assets of the respondent no. 1 company are expressly kept open to be advanced by both the parties and valuer should decide the same in accordance with law.

5. The respondents hereby agree and undertake

that till and until the payment is made as reported by the valuer and till further orders passed by this Court, they shall not alienate, encumber or create any third party right or dispose of any of the assets of the 1st respondent company except in due course of business.

6. On such valuer report being filed, the respondent shall deposit in this Court within 60 days, the amount quantified by the valuer and the appellant shall deposit in this Court all the transfer deeds/documents which are necessary for the purpose of transferring the shares held by them along with necessary share certificates deposited in this Court to be ultimately executed in favour of the respondents herein. On such deposit of shares and transfer documents in this Court, the Prothonotary and Senior Master, High Court, Bombay, shall release the payment deposited by the respondents in conformity of the said valuation report to the appellant herein.

7. In an event of any default in depositing the amount within 60 days, the respondents shall be liable to pay interest at the rate of 18% per annum.

8. All costs, charges and expenses of the valuer will be shared by the appellant and the respondent in proportion of 25% and 75% respectively

and shall be deposited in advance with the valuer.

. Appeal is disposed of accordingly. However,there shall be no order as to costs.